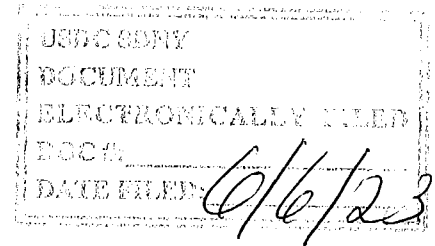


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
LAWRENCE SAVOCA,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.  
-----X**ORDER**

16 CV 4465 (VB)



On June 9, 2016, petitioner Lawrence Savoca filed his second motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence imposed on February 16, 2005, in his underlying criminal case (03 CR 841-01). By Opinion and Order dated May 5, 2020, this Court denied the motion, and the U.S. Court of Appeals for the Second Circuit affirmed on December 29, 2001.

On November 29, 2022, the Second Circuit granted Savoca's petition for rehearing, vacating Part I of its December 29, 2021, opinion as it related to Savoca's conviction under 18 U.S.C. § 924(c) (Count Three), and remanding the case to this Court to determine whether Savoca was sentenced under Section 924(c)(3)(A) (the "elements clause") or Section 924(c)(3)(B) (the "residual clause").

For the reasons set forth on the record at a hearing on April 20, 2023, this Court determined that Savoca's Section 924(c) conviction was based on the residual clause, and proceeded to consider the merits of the Section 2255 motion. On the merits, the Court held that the predicate "crime of violence" for the Section 924(c) conviction—attempted Hobbs Act robbery—is not a crime of violence as defined in the statute, and therefore that Savoca's conviction under Section 924(c) must be vacated and Savoca must be resented on his remaining convictions for conspiracy to commit Hobbs Act robbery, attempted Hobbs Act robbery, and being a felon-in-possession of a firearm.

On June 5, 2023, Savoca was resented in the criminal case, and an amended judgment was entered on June 6, 2023.

Accordingly, because petitioner has been resented and an amended judgment has been entered in the criminal case, the Clerk is instructed to enter judgment in this case granting petitioner's Section 2255 motion to vacate, set aside, or correct his sentence imposed on February 16, 2005.

Dated: June 6, 2023  
White Plains, NY

SO ORDERED:

Vincent L. Briccetti  
United States District Judge